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PATENT
Customer Number 22,852
Attorney Docket No.: 05725.0663-01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Isabelle ROLLAT et al.)	Group Art Unit: 1615
)	
Application No.: 10/623,741)	Examiner of Parent Appln:
)	R. Bennett
Filed: July 22, 2003)	
)	
For: RESHAPABLE HAIR STYLING)	
COMPOSITION COMPRISING)	
POLYURETHANE DISPERSIONS)	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(b)

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), Applicants bring to the attention of the Examiner the documents listed on the attached PTO 1449. This Information Disclosure Statement is being filed before the mailing date of a first Office Action on the merits for the above-referenced application.

Applicants would like to bring to the Examiner's attention that the invention claimed in the above referenced application is associated with a Collaboration Agreement between the assignee of the application, L'Oréal, and a U.S. third party corporation. It is the wish of the signatories of the Agreement that the identity of the third party not be made public. In view of Applicants' duty to disclose information that may be material to the patentability of the application, Applicants present the following information regarding the collaboration and events leading to the filing of the application.

Applicants respectfully request that the Examiner acknowledge consideration of this information in the next PTO communication.

When the two parties entered into the collaboration, they recognized that L'Oréal had experience and expertise in cosmetology, had performed R&D work in the field of cosmetic products, had studied the innovative concept of reshapable hair products using adhesive materials, was interested in testing materials to evaluate and determine their possible use in reshapable hair products, and had the facilities and capabilities to test such materials. Likewise, the parties recognized that the third party had experience and expertise in chemical compounds, had performed R&D work in the field of polymers and other materials that could have applications in the field of cosmetic products, and had the facilities and capabilities to select and prepare candidate adhesive materials. Accordingly, the parties' objective for the Collaboration was for the third party to select candidate adhesive materials and for L'Oréal to evaluate such candidate adhesives and to develop any novel reshapable hair formulations based on any such adhesive.

This objective progressed as follows. L'Oréal provided to the third party target properties that L'Oréal believed necessary for an adhesive material to be useful in a reshapable hair formulation. After a period of investigation, the third party provided L'Oréal with a list of polymer classes as potential candidates, some of which were approved by L'Oréal for further development.

In this laboratory portion of the project, the third party began the development of adhesive materials falling within the general scope of the approved candidate classes. The third party supplied, free of charge, to L'Oréal samples of these adhesives materials, as they were developed. The third party also provided information regarding

its own testing of the adhesive materials, including testing that the third party believed may be predictive of its suitability for a reshapable hair styling formulation.

L'Oréal evaluated the adhesive materials and identified the most promising examples, and, in some instances, provided feedback to the third party to optimize the adhesive materials for use in formulations. L'Oréal determined that neither the third party's testing nor L'Oréal's preliminary testing of an adhesive sample was truly predictive of a reshapable effect for a formulation comprising the adhesive material. The only predictive testing was L'Oréal's *in vivo* testing, as described in the application, conducted under the direction and control of Mrs. Rollat and Mr. Samain.

Applicants note that there had been a difference of opinion between L'Oréal and the third party regarding inventorship for the claimed invention of this and related applications. Both parties recognized that inventorship is a difficult determination to make in the context of a collaboration and agreed to allow attorneys of the undersigned attorney's law firm to make a determination. The facts underlying the development of the invention, as claimed, were investigated by those attorneys. The attorneys concluded that Mrs. Rollat and Mr. Samain conceived of the compositions with a reshapable effect and, therefore are the inventors of the claimed invention. That determination was communicated to the parties orally. While the third party has orally indicated that some employees of the third party disagree with the legal conclusion, the third party orally chose not to contest that determination by arbitration, which was their right under the Agreement, or by filing a paper in this application, as invited by Applicants.

The undersigned believes that this was a fair and impartial decision, particularly since under the Agreement, the ownership of the patent rights was predetermined, irrespective of the outcome of the inventorship investigation. Specifically, all rights to any application claiming a composition with a reshapable effect belong to L'Oréal, irrespective of who was the employer of the inventors. Nevertheless, in view of recent decisions of the Federal Circuit, Applicants believe their duty of disclosure to the PTO requires presentation of these facts to the Examiner.

The undersigned notes that there is no question that conception is the touchstone of inventorship. Hence, the underlying issue that was investigated was "who conceived of the claimed invention?" The claims of the above-referenced application are directed to compositions with a reshapable effect comprising a specific subclass of adhesive materials. Applicants do not question whether the third party invented the adhesive materials that were investigated by Mrs. Rollat and Mr. Samain. However, Applicants submit that the conception of the adhesive material does not intersect with the conception of the reshapable hair styling composition. If that were always the case, all patent applications claiming cosmetic compositions would need to identify the individuals, who developed the compounds that are found in the claimed compositions, as co-inventors. That has not been the case in this field. Here, while the third party did provide test data regarding the adhesive materials, the initial concept of a reshapable product and the target properties for an adhesive were from L'Oréal. Further, it has been the experience of L'Oréal and, in particular, Mrs. Rollat and Mr. Samain that this is a highly unpredictable art and that only their *in vivo* testing is truly predictive of a reshapable effect. In fact, it is possible that conception did not even occur until there

was an actual reduction to practice, which was conducted under the control and supervision of only the named inventors, Mrs. Rollat and Mr. Samain.

Applicants reserve the right to take appropriate action to establish the patentability of the disclosed invention over the above information, should the Examiner apply this information against the claims of the present application.

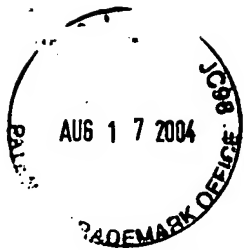
If there is any fee due in connection with the filing of this Statement, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: August 17, 2004

By: 
Anthony A. Hartmann
Reg. No. 43,662



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Copies of the listed documents, which are marked with an asterisk (*) on the PTO-1449 form, were previously submitted by Applicants or identified by the Office in prior Application No. 09/627,785, which was filed July 27, 2000, upon which Applicants rely for the benefits provided in 35 U.S.C. § 120. Applicants respectfully request that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

The following is a statement regarding the non-English language documents:

1. **EP 0 636 361** - An English language equivalent, U.S. Patent No. 5,643,581, was previously submitted.
2. **EP 0 637 600** - An abstract of the disclosure of this document can be found in the English language Derwent Abstract, previously submitted.
3. **EP 0 656 021** - An English language abstract of an equivalent, WO 94/03510, was previously submitted.
4. **EP 0 696 607** - An English language equivalent, U.S. Patent No. 5,846,524, was previously submitted.
5. **EP 0 751 162** - An abstract of the disclosure of this document can be found in the English language Derwent Abstract, previously submitted.
6. **EP 0 779 310** - An English language abstract of an equivalent WO 94/03510, was previously submitted.
7. **EP 0 938 889** - An abstract of the disclosure of this document can be found in the English language Derwent Abstract, previously submitted.
8. **EP 0 957 119** - An abstract of the disclosure of this document can be found in the English language Derwent Abstract, previously submitted.
9. **FR 2 782 637** - An abstract of the disclosure of this document can be found in the English language Abstract, previously submitted.
10. **JP 10-203937** - An abstract of the disclosure of this document can be found in the English language Derwent Abstract and an ISTA machine translation, previously submitted.
11. **WO 94/03510** - An English language abstract of this foreign language document can be found on the title page of this document.

12. **WO 94/13724** - An English language abstract of this foreign language document can be found on the title page of this document.
13. **WO 96/14049** - An English language abstract of this foreign language document can be found on the title page of this document.
14. **WO 97/17052** - An English language abstract of this foreign language document can be found on the title page of this document.
15. **WO 97/17386** - An English language abstract of this foreign language document can be found on the title page of this document.
16. **WO 98/38969** - An English language abstract of this foreign language document can be found on the title page of this document.
17. **WO 99/43289** - An English language abstract of this foreign language document can be found on the title page of this document and EP 1 068 859, previously submitted.
18. **WO 99/48941** - An English language abstract of this foreign language document can be found on the title page of this document.
19. **WO 99/58100** - An English language abstract of this foreign language document can be found on the title page of this document.
20. **WO 99/63955** - An English language abstract of this foreign language document can be found on the title page of this document.

Additionally, Applicants would like to bring to the Examiner's attention the following co-pending applications, which the Examiner might consider to relate to similar subject matter:

1. **Title:** RESHAPABLE HAIR STYLING COMPOSITION COMPRISING
ACRYLIC EMULSIONS
By: Isabelle ROLLAT et al.
Filed: July 27, 2000
Application No.: 09/627,055
Attorney Docket No.: 05725.0662-00000
2. **Title:** RESHAPABLE HAIR STYLING COMPOSITIONS COMPRISING
ACRYLIC COPOLYMERS
By: Isabelle ROLLAT et al.
Filed: October 28, 2003
Application No.: 10/693,966 (continuation of 09/695,392)
Attorney Docket No.: 05725.0756-01000
3. **Title:** RESHAPABLE HAIR STYLING COMPOSITION COMPRISING
(METH) ACRYLIC COPOLYMERS OF FOUR OR MORE
MONOMERS
By: Isabelle ROLLAT et al.
Filed: March 25, 2003
Application No.: 10/395,064 (continuation of 09/866,009)
Attorney Docket No.: 05725.0911-01000
4. **Title:** RESHAPABLE HAIR STYLING COMPOSITION COMPRISING
HETEROGENEOUS (METH) ACRYLIC COPOLYMER
PARTICLES
By: Isabelle ROLLAT et al.
Filed: October 28, 2003
Application No.: not assigned (continuation of 09/866,013)
Attorney Docket No.: 05725.0912-01000
5. **Title:** RESHAPABLE HAIR STYLING RINSE COMPOSITION
COMPRISING (METH)ACRYLIC COPOLYMERS
By: Isabelle ROLLAT et al.
Filed: December 20, 2001
Application No.: 10/023,330
Attorney Docket No.: 05725.0922-00000
6. **Title:** RESHAPABLE HAIR STYLING NON-RINSE COMPOSITION
COMPRISING (METH)ACRYLIC COPOLYMERS
By: Isabelle ROLLAT et al.
Filed: December 20, 2001
Application No.: 10/022,253
Attorney Docket No.: 05725.0959-00000

A copy of each specification was previously provided by Applicants during prosecution of the parent application.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claim in the application and Applicants determine that the cited documents do not constitute "prior art" under United States law, Applicants reserve the right to present to the office the relevant facts and law regarding the appropriate status of such documents.

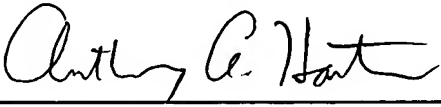
Applicants further reserve the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please charge the fee to our Deposit Account No. 06-0916.

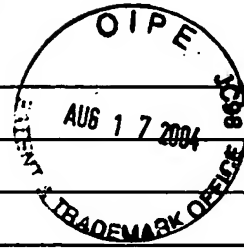
Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: August 17, 2004

By: 
Anthony A. Hartmann
Reg. No. 43,662

INFORMATION DISCLOSURE CITATION
(Use several sheets if necessary)



Atty. Docket No.	05725.0663-01	Serial No.	10/623,741
Applicant	Isabelle ROLLAT et al.		
Filing Date	July 22, 2003	Group:	1615

U.S. PATENT DOCUMENTS

Examiner Initial*		Document Number	Date	Name	Class	Sub Class	Filing Date If Appropriate
	*	Re. 34,730	09/1994	Salatin et al.	427	404	
	*	3,479,310	11/1969	Dieterich et al.	260	29.2	
	*	3,600,359	08/1971	Miranda	260	77.5	
	*	3,700,643	10/1972	Smith et al.	260	77.5	
	*	4,307,219	12/1981	Larson	528	71	
	*	4,423,179	12/1983	Guagliardo	524	539	
	*	4,507,430	03/1985	Shimada et al.	524	839	

FOREIGN PATENT DOCUMENTS

		Document Number	Date	Country	Class	Sub Class	Translation Yes or No
	*	0 039 162 A2	11/04/81	Europe			
	*	0 299 148 A2	01/18/89	Europe			
	*	0 636 361	02/1995	Europe			No
	*	0 637 600	02/1995	Europe			Abstract
	*	0 656 021	06/1995	Europe			No
	*	0 696 607	02/1996	Europe			No

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

	*	English language translation of JP 10-203937
	*	Derwent Abstract of EP 0 637 600
	*	Derwent Abstract of EP 0 751 162
	*	Derwent Abstract of EP 0 938 889

Examiner	Date Considered
<p>*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609; draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.</p>	
Form PTO 1449	Patent and Trademark Office - U.S. Department of Commerce

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U.S. PATENT DOCUMENTS

Examiner Initial*		Document Number	Date	Name	Class	Sub Class	Filing Date If Appropriate
	*	4,542,012	09/17/85	Dell	424	28	
	*	4,558,149	12/10/85	Larson	560	14	
	*	4,667,661	05/1987	Scholz et al.	128	90	
	*	4,699,133	10/1987	Schafer et al.	128	156	
	*	4,738,992	04/1988	Larson et al.	521	157	
	*	4,746,717	05/1988	Larson	528	68	
	*	4,798,721	01/1989	Yahagi et al.	424	70	
	*	4,978,527	12/18/90	Brink et al.	424	78	

FOREIGN PATENT DOCUMENTS

		Document Number	Date	Country	Class	Sub Class	Translation Yes or No
	*	0 751 162	01/1997	Europe			Abstract
	*	0 779 310	06/1997	Europe			No
	*	0 807 647 A1	11/19/97	Europe			
	*	0 838 211	04/1998	Europe			
	*	0 838 212	04/1998	Europe			
	*	0 937 451	08/1999	Europe			
	*	0 938 889	09/1999	Europe			Abstract

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

	*	Derwent Abstract of EP 0 957 119
	*	Derwent Abstract of JP 10-203937 637 600

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U.S. PATENT DOCUMENTS							
Examiner Initial*		Document Number	Date	Name	Class	Sub Class	Filing Date If Appropriate
	*	4,985,239	01/1991	Yahagi et al.	424	70	
	*	5,045,601	09/03/91	Capelli et al.	525	327.1	
	*	5,120,531	Jun-92	Wells et al.	424	70	
	*	5,173,291	12/22/92	Brink et al.	424	70.86	
	*	5,180,061	01/19/93	Khan et al.	206	570	
	*	5,230,701	07/1993	Meyer et al.	602	76	
	*	5,302,385	04/12/94	Khan et al.	424	486	
	*	5,334,650	08/1994	Serdiuk et al.	524	591	
	*	5,334,690	08/1994	Schafheutle et	528	71	
	*	5,334,691	08/1994	Gould et al.	528	76	
	*	5,370,910	12/1994	Hille et al.	427	407.1	

FOREIGN PATENT DOCUMENTS							
		Document Number	Date	Country	Class	Sub Class	Translation Yes or No
	*	0 957 119	11/1999	Europe			Abstract
	*	1 068 859	01/2001	Europe			
	*	2 782 637	Mar-00	France			Abstract
	*	10-203937	08/1998	Japan			Yes
	*	WO 94/03510	02/1994	PCT			Abstract
	*	WO 94/13724	06/1994	PCT			Abstract

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U.S. PATENT DOCUMENTS							
Examiner Initial*		Document Number	Date	Name	Class	Sub Class	Filing Date If Appropriate
	*	5,610,232	03/11/97	Duan et al.	524	840	
	*	5,616,400	04/1997	Zhang	428	195	
	*	5,626,840	05/1997	Thomaides et	424	70.11	
	*	5,643,581	07/1997	Mougin et al.	424	401	
	*	5,650,159	07/1997	Lion et al.	424	401	
	*	5,672,653	09/1997	Frisch et al.	524	591	
	*	5,679,754	10/1997	Larson et al.	528	28	

FOREIGN PATENT DOCUMENTS							
		Document Number	Date	Country	Class	Sub Class	Translation Yes or No
	*	WO 96/14049	05/1996	PCT			Abstract
	*	WO 97/17052	05/1997	PCT			Abstract
	*	WO 97/17386	05/1997	PCT			Abstract
	*	WO 98/38969	09/1998	PCT			Abstract

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)	
*	Co-pending U.S. Application No. 09/627,055; Attorney Docket No.: 05725.0662-00000 Title: RESHAPABLE HAIR STYLING COMPOSITION COMPRISING ACRYLIC EMULSIONS Inventors: Isabelle ROLLAT et al. U.S. Filing Date: July 27, 2000
*	Co-pending U.S. Application No. 10/693,966; Attorney Docket No.: 05725.0756-01000 Title: RESHAPABLE HAIR STYLING COMPOSITIONS COMPRISING ACRYLIC EMULSIONS Inventors: Isabelle ROLLAT et al. U.S. Filing Date: October 28, 2003

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	*	5,692,937	12/1997	Zhang	442	149	
	*	5,843,523	12/1998	Mazza et al.	427	208.8	
	*	5,855,208	01/05/99	Askill et al.	128	849	
	*	5,874,072	02/1999	Alwattari et al.	424	70.7	
	*	5,879,668	03/1999	Hanna et al.	424	70.7	
	*	5,911,973	06/1999	de la Poterie	424	61	
	*	5,925,724	07/1999	Cenens et al.	528	85	

FOREIGN PATENT DOCUMENTS

		Document Number	Date	Country	Class	Sub Class	Translation Yes or No
	*	WO 99/39688	08/1999	PCT			
	*	WO 99/43289	09/1999	PCT			Abstract
	*	WO 99/47127	09/1999	PCT			

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

	*	Co-pending U.S. Application No. 10/395,064; Attorney Docket No.: 05725.0911-01000 Title: Reshapable Hair Styling Composition Comprising Heterogeneous (Meth)Acrylic Copolymer Particles By: Isabelle ROLLAT et al. Filed: March 25, 2003
	*	Co-pending U.S. Application No.: not assigned - Attorney Docket No. 05725.0912-01000 Title: Reshapable Hair Styling Composition Comprising (Meth) Acrylic Copolymers of Four or More Monomers By: Isabelle ROLLAT et al. Filed: October 28, 2003

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	*	5,951,993	09/1999	Scholz et al.	424	405	
		5,961,989	10/1999	Mougin et al.	424	401	
	*	5,962,620	10/1999	Reich et al.	528	76	
	*	5,968,494	10/1999	Kukkala et al.	424	70.1	
	*	5,968,495	Oct-99	Bolich Jr. et al.	424	70.12	
	*	5,972,354	10/1999	de la Poterie et	424	401	
	*	5,981,650	11/1999	Zhao et al.	524	591	
	*	5,989,570	11/1999	Lion et al.	424	401	
	*	5,993,972	11/1999	Reich et al.	428	423.1	
	*	5,997,886	Dec-99	Peffly et al.	424	401	

FOREIGN PATENT DOCUMENTS							
		Document Number	Date	Country	Class	Sub Class	Translation Yes or No
	*	WO 99/48941	09/30/99	PCT			Abstract
	*	WO 99/58100	11/1999	PCT			Abstract
	*	WO 99/63955	12/1999	PCT			Abstract

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*	Co-pending U.S. Application No. 10/023,330; Attorney Docket No.: 05725.0922-00000 Title: RESHAPABLE HAIR STYLING RINSE COMPOSITION COMPRISING (METH)ACRYLIC COPOLYMERS Inventors: Isabelle ROLLAT et al. U.S. Filing Date: December 20, 2001

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	*	6,007,793	12/1999	Bhatt et al.	424	47	
		6,126,929	10/2000	Mougin	424	70.7	10/1998
	*	6,165,239	Dec.-00	Hedrick et al.	51	295	07/1977
	*	6,319,959	Nov-01	Mougin et al.	514	772.1	06/1996
		6,346,234	02/2002	Rollat et al.	424	47	10/1999
		6,433,073	08/2002	Kantner et al.	524	591	07/2000
		6,517,821	02/2003	Rollat et al.	424	70.11	07/2000
		6,520,186	02/2003	Rollat et al.	132	203	01/2001
		6,613,314	09/2003	Rollat et al.	424	70.1	07/2000
		6,645,478	11/2003	Rollat et al.	424	70.1	06/2001
		6,667,378	12/2003	Rollat et al.	526	266	06/2001
		6,689,346	02/2004	Rollat et al.	424	70.1	10/2000

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)	
*	Co-pending U.S. Application No. 10/022,253; Attorney Docket No.: 05725.0959-00000 Title: RESHAPABLE HAIR STYLING NON-RINSE COMPOSITION COMPRISING (METH)ACRYLIC COPOLYMERS Inventors: Isabelle ROLLAT et al. U.S. Filing Date: December 20, 2001

Examiner	Date Considered
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